



Pitney Bowes

Vice President
Product Planning and Support
Facsimile Systems

December 1, 1992

Ms. Donna Searcy
Secretary, FCC
Room 222
1919 M. St. NW
Washington, DC 20554

Dear Ms. Searcy:

Reference Docket Number (92-90)

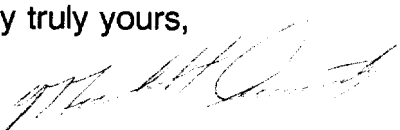
Pitney Bowes is a large American company that is engaged in, among other things, the sale of facsimile equipment. It has been brought to our attention recently, that the FCC has proposed new regulations to take effect almost immediately that will change the way facsimile machines must be manufactured.

We were unaware that the designs of fax machines might be subject to these new requirements until last week and are not in a position to successfully comply by the requested date. We think it is very unjust for the FCC to implement a regulation like this with no prior notice and think it would be very difficult for ourselves, as well as any manufacturer of fax equipment to comply to these new regulations. Even if we knew precisely what was required by the rule, which we do not, because we have yet to receive a copy of it, we would need a minimum of 12 additional months before we could conform all of our equipment to the new requirements.

We currently manufacture 6 models of equipment which do not include the capability of labeling fax transmissions with the date, the time and both the sender's number and an alpha heading. Currently, our machines can provide either an alpha heading or a telephone number, but not both. To provide both would mean a complete redesign of the equipment and in fact, may cause problems with the customer's transmissions because it would be printed over some of the customer's copy.

For these reasons, we are in complete support of the petitions submitted on these matters by the Electronics Industries Association.

Very truly yours,


Michael J. Armstrong
Vice President
Product Planning & Technical Support

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KNTV(TV), SAN JOSE, CALIFORNIA
"TELEVISION MARKET" DEFINITION

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

I. MARKET DEFINITION

Under the Cable Television Consumer Protection and Competition Act of 1992 ("Act"), a television station signal is "local" for must carry purposes if the station is within the same "television market" as the cable system. The Act defines "television market" by reference to §73.3555(d)(3)(i), which defines "television markets" as the "Arbitron Area of Dominant Influence (ADI) markets."

II. APPLICATION OF THE "MARKET" DEFINITION TO KNTV

A. The ADI Dilemma.

KNTV's community of license is San Jose, California in Santa Clara County, which county is assigned by Arbitron to the San Francisco-Oakland-San Jose ADI. The Station, an ABC affiliate, however, has been historically assigned by Arbitron to the Salinas-Monterey ADI (which does not include Santa Clara County). It appears that Arbitron's long standing assignment of KNTV to the Salinas-Monterey ADI means that the Station's "television market" would be the Salinas-Monterey ADI, and that Santa Clara County, located in the San Francisco-Oakland-San Jose ADI, would be excluded from its "television market."

B. Emphasis on Localism.

The Act directs the Commission to include additional communities within, or to exclude communities from, a station's television market in order to better promote the "value of localism." KNTV is the only VHF station licensed to San Jose and is the community's only network affiliate. The primary focus of KNTV's local service has been and continues to be San Jose and the surrounding areas as reflected in the Station's "San Jose Newschannel" moniker. KNTV produces 17 hours of long form newscasts each week, primarily centered on news of San Jose and Santa Clara County. The Station is planning to broadcast the mayor's San Jose State of the City address live within its 6pm newscast on January 27, 1993 and, in recent years, the station has produced and broadcast a wide range of prime time special programs, frequently live remotes, about such important events as the opening of the new wing of the local art museum, the opening of the new Children's Discovery Museum, the opening night of the new Fairmont Hotel in the city's downtown redevelopment core, the downtown Christmas Parade as well as annual programs honoring outstanding local Hispanic citizens, outstanding contributions by disabled citizens and an annual local "Volunteer-a-Thon" that annually raises more than 1 million hours of donated volunteer time for San Jose area charities. Given the Act's emphasis on

localism, it is clear that at a minimum, KNTV's must carry television market must include Santa Clara County.

C. KNTV's Position.

Several factors including Arbitron's long-standing designation of KNTV to the Salinas-Monterey ADI, the fact that the Station is the sole ABC affiliate assigned by Arbitron to that ADI, and the Station's historical cable carriage in the ADI, strongly support designating the Salinas-Monterey ADI as the Station's "television market" for must carry purposes. In fact, the Commission has previously recognized the Station's orientation to the Salinas-Monterey ADI market. See, e.g., Ralph C. Wilson Industries, Inc., 91 F.C.C.2d 127 (1982); American Broadcasting Companies, Inc., 77 F.C.C.2d 136 (1980). Assignment of the Station solely to the Salinas-Monterey ADI, however, would exclude KNTV from being classified as a "local" station on San Jose and Santa Clara County cable systems. Accordingly, Santa Clara County should be included in KNTV's "television market."

III. PROCEDURES FOR DEFINING KNTV'S MARKET

It is difficult to envision any circumstances in which a station's community of license (and the county in which it is located) would not be included in a station's must carry television market. KNTV seeks advice on how best to ensure that the Commission includes Santa Clara County (in addition to the Salinas-Monterey ADI) as part of KNTV's must carry "television market."

KNTV presumes that at a minimum it will be able to include Santa Clara County in its "television market" utilizing the procedures that are ultimately adopted by the Commission for handling on a case-by-case basis requests for adjusting a particular station's ADI television market. The Station, however, seeks (i) to include Santa Clara County in its market through the Commission's must carry/retransmission consent rulemaking, or (ii) alternatively, to streamline and clarify the "case-by-case" procedures to enhance KNTV's ability to expeditiously obtain FCC approval to include Santa Clara County in its market.

A. Adoption Of A Rule Providing For The Inclusion Of Santa Clara County In KNTV's Television Market.

In promulgating rules to implement the new must carry requirements, the Commission could address KNTV's plight through its rulemaking authority by simply recognizing the uniqueness of KNTV's situation and departing from the general definition and designating KNTV's television market as including Santa Clara County. This narrowly tailored approach would achieve the desired result without unknown potential impact on other markets

or stations. Alternatively, the Commission could address KNTV's situation through the adoption of a broader generic approach that encompasses all situations in which a station's community of license lies outside its assigned ADI. Specifically, such a rule would provide that a station's county of license (i.e., where its city of license is located) would always be included in its must carry "television market."

B. Streamlining The Special Procedures For Adjusting Television Markets.

An alternative to the generic approach is to incorporate special provisions into the rules implementing procedures for adjusting specific stations' television markets. Specifically, the Commission could adopt an irrebuttable "presumption" that in considering requests to modify a station's television market the inclusion of a station's county of license in its television market furthers the statutory goals of localism. The rules would provide for the inclusion of a station's county of license in its market upon the filing of a written request with the Commission and service of such request on affected cable systems.

C. Benefits Of a Broader Approach.

Adoption of a broader approach would have the benefit of conserving Commission resources by eliminating or minimizing the administrative resources required to handle requests to include a station's county of license in its must carry television market. Given a licensee's obligation to provide programming that serves the needs and interests of its community of license, it is difficult to envision any situations in which a station's county of license should not be included in its television market for must carry purposes. Accordingly, it would not be a prudent expenditure of resources if the Commission dealt with such situations on a case-by-case basis.

IV. ISSUES FOR DISCUSSION

1. Is KNTV's conclusion that its "television market" is its "assigned" ADI, i.e., Salinas-Monterey, reasonable?
2. Is it reasonable to assume that a station's county of license (i.e., where its community of license is located), should be included in a station's television market?
3. What is the best approach for including Santa Clara County in KNTV's television market?